

## **SECTION 5**

### **GENERAL REGULATIONS**

#### **SECTION 5-1.        MUTUAL RESPONSIBILITY.**

There is a mutual responsibility between the subdivider and the City of Winchester, Virginia to divide the land so as to improve the general use pattern of the land being subdivided.

#### **SECTION 5-2.        LAND MUST BE SUITABLE.**

The Administrator shall not approve the subdivision of land if from adequate investigations conducted by all public agencies concerned, it has been determined that in the best interest of the public the site is not suitable for platting and development purposes of the kind proposed.

#### **SECTION 5-3.        FLOODING.**

Land subject to flooding and land deemed to be topographically unsuitable shall not be platted for residential occupancy, nor for such other uses as may increase danger of health, life or property, or aggravate erosion or flood hazard. Such land within the subdivision shall be set aside on the plat for such uses as shall not be endangered by periodic or occasional inundation or shall not produce conditions contrary to public welfare. All subdivisions within the City of Winchester shall conform with the recommendation of the applicable Storm Drainage Report.

#### **SECTION 5-4.        BUILDING SITE.**

To ensure that residents will have sufficient land upon which to build a house which is flood free, the Administrator may require the subdivider to provide elevation and flood profiles sufficient to demonstrate the land to be completely free of the danger of flood waters.

#### **SECTION 5-5.        IMPROVEMENTS.**

All improvements shown on the plan or plat shall be installed by the subdivider at his cost and in accordance with City rules and regulations. The plan shall clearly show the dedication for public use any right-of-way which has proposed to be constructed any street, curb, gutter, sidewalk, bicycle trail, drainage or sewerage system, waterline as part of a public system or other improvement dedicated for public use, and maintained by the

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locality or other public agency, and the provision of other site-related improvements required by local ordinances for vehicular ingress and egress, for public access streets, for structures necessary to ensure stability of critical slopes, and for storm water management facilities. (04-11-95, Case SA-94-01, Ord. No. 016-95)

5-5-1 Any public and private improvements proposed for installation, operation and/or acceptance after the issuance of a Certificate of Occupancy shall be noted on the plans. The construction plans shall clearly show the location and timing of any proposed improvements for which deferred installation is requested. (09-10-96, Case # SA-96-01, Ord. No. 022-96)

### **SECTION 5-6. ZONING ORDINANCE REGULATIONS.**

All subdivisions shall be in accordance with the minimum lot size and all other regulations set forth in the Winchester Zoning Ordinance.

### **SECTION 5-7. FLOOD CONTROL AND DRAINAGE.**

The subdivider shall provide all necessary information needed to determine what improvements are necessary to properly develop the subject property, including when deemed necessary by the Administrator, a topographic map at two (2) foot contour intervals, drainage plans and flood control devices. The subdivider shall also provide plans for all such improvements together with a certified engineer's or qualified land surveyor's statement that such improvements, when properly installed, will be adequate for proper development. All improvements shall conform with the recommendations of the applicable Storm Drainage Report. The subdivider shall also provide any other information required by the Administrator.

### **SECTION 5-8. EASEMENTS.**

The Administrator may require that easements for access, utilities and drainage through adjoining property be provided by the subdivider. Easements of not less than twenty (20) feet in width shall be provided for vehicular access, water, sewer, power lines and other utilities in the subdivision. Pedestrian access easements may be required for walkways at a width consistent with the walkway. (10-12-93, Case SA-93-01, Ord. No 035-93)

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### **SECTION 5-9. PUBLIC WATER AND SEWER.**

No subdivision shall be approved unless public water and sewer is available. Where a new subdivision has extended water and sewer mains, complete service connections shall be extended to each lot within the subdivision.

### **SECTION 5-10. FIRE PROTECTION.**

The installation of fire hydrants and adequately sized water mains connected in a looped system shall be required in order to provide the necessary fire protection. The sizing and routing of water mains and the location of fire hydrants shall require approval of both the Fire Chief and Utilities Superintendent. The requirement of a looped water system may be waived by the Commission if the subdivider can show that adequate fire protection will be maintained without the looped water system.

### **SECTION 5-11. PERFORMANCE SURETY.**

Before any subdivision plat will be finally approved by Council, the subdivider shall complete the improvements per Section 5-5 of this Ordinance, or, in lieu of completed construction, meet the following requirements: (04-11-95, Case SA-94-01, Ord. No. 016-95)

- 5-11-1 Any right-of-way or site-related improvements financed or to be financed by private funds shall be accepted only if the owner or developer:
- a. certifies to the governing body that the construction costs have been paid to the person constructing such facilities; or,
  - b. furnishes to the governing body a certified check or cash escrow in the amount of the estimated costs of construction ;or,
  - c. furnishes to the governing body a personal, corporate or property bond, with surety satisfactory to the governing body, in an amount sufficient for and conditioned upon the construction of such facilities; or,
  - d. furnishes to the governing body a contract for the construction of such facilities and the contractor's bond with like surety, in like amount and so conditioned; or
  - e. furnishes to the governing body a bank or savings and loan association's letter of credit on certain designated funds satisfactory to the governing body as to the bank or savings and loan association, the amount and the form.(04-11-95, Case SA-94-01, Ord. No. 016-95)

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- 5-11-2 The amount of such certified check, cash escrow, bond, or letter of credit shall not exceed the total of the estimated cost of construction based on unit prices for new public or private sector construction in the locality and a reasonable allowance for estimated administrative costs, inflation, and potential damage to existing roads or utilities. (04-11-95, Case SA-94-01, Ord. No. 016-95)
- 5-11-3 Provisions for periodic partial and final complete release of bonds, letters of credit and other performance guarantees required by City Council shall be offered to the subdivider or developer upon completion of part or all of the improvements as follows:
- a. The applicant shall make a written request for partial or final release to the City.
  - b. The City shall execute the release unless it notifies the applicant in writing of any defects or deficiencies in construction and suggest corrective measures within thirty days after the applicant's request.
  - c. If the City does not respond within thirty days to a request for partial release, then it is deemed approved.
  - d. If the City does not respond within thirty days to a request for final release, then the applicant may make a request via certified mail to the City Manager. If the City does not respond within ten days to the additional request for final release, then it is deemed approved.
  - e. Partial release requests shall not be made for less than thirty percent nor more than eighty percent completion of the work.
  - f. The City shall not be required to make more than three partial releases within any twelve month period. For purposes of final release, the term "Acceptance" shall means when the public facilities are accepted and taken over for operation and maintenance by the City or other proper public authority. (04-11-95, Case SA-94-01, Ord. No. 016-95)

### **SECTION 5-12. PLANS AND SPECIFICATIONS.**

Five (5) blue or black line prints of the plans shall be prepared by a qualified land surveyor or engineer and shall be submitted to the Administrator who will approve or disapprove same within sixty (60) days. If disapproved, all papers shall be returned to the subdivider with the reason for disapproval in writing.

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### **SECTION 5-13.      SHAPE.**

The lot arrangement, design, and shape shall be such that lots will prove satisfactory and desirable sites for buildings, and be properly related to topography, and conform to requirements of this Ordinance. Lots shall not contain peculiarly shaped elongation solely to provide necessary square footage of area which would be unusable for normal purposes.

### **SECTION 5-14.      LOCATION.**

Each lot shall abut on a street to be dedicated or on an existing publicly dedicated street, or on a street which has become public by right of use. If the existing street rights of way are not of sufficient width to comply with the Ordinance, the subdivider shall dedicate enough land to provide a street right of way of sufficient width to conform with the requirements of this Ordinance measuring from the center line of said existing street right of way for one-half the total width. The administrator may waive the requirement for right of way dedication for lots situated along streets within the Historic Winchester (HW) District and certain other minor subdivisions which do not result in additional potential impact on the street(s). (04-11-95, Case SA-94-01, Ord. No. 016-95)

### **SECTION 5-15.      CORNER LOTS.**

Corner lots shall have extra width sufficient for maintenance of required building lines on both streets.

### **SECTION 5-16.      SIDE LINES.**

Side lines of lots shall be approximately at right angles, or radial, to the street line.

### **SECTION 5-17.      REMNANTS.**

All remnants of lots below minimum size left over after subdividing of a tract must be added to adjacent lots, or otherwise disposed of rather than allowed to remain as unusable parcels.

### **SECTION 5-18.      SEPARATE OWNERSHIP.**

Where the land covered by a subdivision includes two or more parcels in separate ownership, and lot arrangement is such that a property ownership line divides one or more lots, the land in each lot so divided shall be transferred by deed to single ownership simultaneously with the recording of the final plat. Said deed is to be deposited with the

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Administrator and held with the final plat until the subdivider is ready to record same, and they both shall then be recorded together.

### **BLOCKS**

#### **SECTION 5-19. LENGTH.**

Generally, the maximum length of blocks shall be twelve hundred (1,200) feet and the minimum length of blocks upon which lots have frontage shall be five hundred (500) feet.

#### **SECTION 5-20. WIDTH.**

Blocks shall be wide enough to allow two tiers of lots of minimum depth, except where fronting on major streets, unless prevented by topographical conditions or size of the property, in which case the Administrator may approve a single tier of lots of minimum depth.

#### **SECTION 5-21. ORIENTATION.**

Where a subdivision adjoins a major road, the Administrator may require that the greater dimension of the block shall front or back upon such major thoroughfare to avoid unnecessary ingress or egress.

#### **SECTION 5-22. BUSINESS OR INDUSTRIAL.**

Blocks or lots intended for business or industrial use shall be designed specifically for such purposes with adequate space set aside for off-street parking and delivery facilities.

### **STREETS**

#### **SECTION 5-23. ALIGNMENT AND LAYOUT.**

The Administrator and Planning Commission have a responsibility to see that the arrangement of streets in new subdivisions shall make provision for the continuation or close continuity of newly dedicated streets to existing streets, and that streets providing parallel travel to existing heavily traveled roads be provided in subdivisions adjacent to these existing roads and that their continuity be planned for. The street arrangement must be such as to cause no unnecessary hardship to owners of adjoining property when they

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plat their own land and seek to provide for convenient access to it. Where, in the opinion of the Planning Commission it is desirable to provide for street access to adjoining property, proposed streets and underground utilities shall be extended by dedication to the boundary line of such property. Half streets along the boundary of land proposed for subdivision will not be permitted. Wherever possible, streets should intersect at right angles. In all hillside areas, streets running with contours shall be required to intersect at angles of not less than sixty (60) degrees, unless approved by the Administrator upon recommendation of the City Engineer.

### **SECTION 5-24. SERVICE DRIVES.**

Whenever a proposed subdivision contains or is adjacent to any Category II or Category III Street as defined in this Ordinance, it may be required that provision be made for a service drive or interparcel connector approximately parallel to such right of way at a distance suitable for an appropriate use of the land between such highway and the proposed subdivision. Such distances shall be determined with due consideration of the minimum distance required for ingress and egress to the main thoroughfare. The right of way of any major highway or street projected across any railroad, limited access highway or expressway shall be of adequate width to provide for the cuts or fill slope easements required for any separation of grades. (10-12-93, Case SA-93-01, Ord. No 035-93)

### **SECTION 5-25. APPROACH ANGLE.**

Major streets shall approach the major or minor streets at an angle of not less than eighty (80) degrees, unless the Administrator, upon recommendation of the City Engineer, shall approve a lesser angle of approach for reasons of contour, terrain or matching or existing patterns.

### **SECTION 5-26. MINIMUM WIDTHS.**

The minimum width of proposed right of way/street widths shall be as follows (8-11-87 Case# TA-87-02 Ord. No. 024-87):

1. Category I - 50 foot right of way, 36 foot street,
2. Category II - 60 foot right of way, 40 foot street,
3. Category III - 70 foot right of way, 48 foot street,
4. Service Drive - 25 foot right of way, 22 foot street
5. Alleys - 15 foot right of way, 12 foot street,
6. Variation in right of way and street widths may be allowed when recommended by the Public Works Director and the Planning Commission and approved by City Council.

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### **SECTION 5-27. CONSTRUCTION REQUIREMENTS.**

Streets shall be constructed in accordance with the current specifications established by the Public Works Department. Variation in road grades may be authorized by the Public Works Director when application of these standards would be unreasonable based on engineering data submitted by a Professional Engineer. (8-11-87 Case# TA-87-02 Ord. No. 024-87)

### **SECTION 5-28. CUL-DE-SACS.**

Generally, cul-de-sacs shall be not longer than 1000 feet to the beginning of the turn around. However, longer cul-de-sacs may be allowed when recommended by the Public Works Director and the Planning Commission and approved by City Council when it can be demonstrated that there are unusual characteristics of the property in terms of shape, slope, or location which were not created by the current owner. (8-11-87 Case# TA-87-02 Ord. No. 024-87)

### **SECTION 5-29. ALLEYS.**

Alleys should be provided in commercial and industrial districts, except that this requirement may be waived where other definite and assured provisions are made for service access, such as off-street loading, unloading, and parking consistent with and adequate for the uses proposed. Before accepting any alley for public use, they shall be paved their full width. Dead-end alleys, if unavoidable, shall be provided with adequate turnaround facilities as determined by the Administrator.

### **SECTION 5-30. WALKWAYS.**

Pedestrian walkways, not less than four (4) feet wide shall be provided along all public streets and may be required where deemed essential to provide access to schools, playground, shopping centers, transportation, and other community facilities. (04-11-95, Case SA-94-01, Ord. No. 016-95)

### **SECTION 5-31. PRIVATE STREETS AND RESERVE STRIPS.**

There shall be no private streets platted in any subdivision, and every subdivided property shall be served from a publicly dedicated street, except as otherwise permitted in the Zoning Ordinance for townhouses and planned developments. There shall be no reserve strips controlling access to streets.

### **SECTION 5-32. COMPREHENSIVE PLAN.**

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The arrangement, character, extent, width, grade and location of all streets shall conform to the Comprehensive Plan and shall be considered in their relation to existing and planned streets, to topographical conditions, to public convenience and safety, and in their appropriate relation to the proposed uses of the land to be served by such streets.

### **SECTION 5-33. STREET SIGNS AND NAMES.**

Street signs shall be installed at all street intersections in the subdivision at the subdivider's expense. Signs shall meet the standards of the City Public Works Department. Variations of the City standards may be considered and approved by the Director of Public Works upon the subdivider submitting a detail of such signs including a plan and budget for maintenance of the signs. Proposed streets which are obviously in alignment with other already existing and named streets shall bear the names of the existing streets. In no case shall the names of proposed streets duplicate existing street names in Winchester or in Frederick County irrespective of the use of the suffixes such as: street, avenue, boulevard, drive, way, place, lane, or court. (04-11-95, Case SA-94-01, Ord. No. 016-95)

### **SECTION 5-34. STREET TREES.**

Trees shall only be located and planted in accordance with Chapter 19, Article 2, Tree Commission, of the Code of the City of Winchester, as amended.

### **SECTION 5-35. STREET LIGHTING.**

Street lights shall be installed along streets in the subdivision at the subdivider's expense. Fixtures, poles and other components shall meet the standards of the City Public Works Department. Variations of the City standards may be considered and approved by the Director of Public Works upon the subdivider submitting a detail of such lighting including a plan and budget for maintenance of the lights. (04-11-95, Case SA-94-01, Ord. No. 016-95)

### **SECTION 5-37. MONUMENTATION.**

All lot corners and all points of curvature, points of tangency, points of compound curve and points of reverse curve on street rights of way shall be marked with iron pipe or rod not less than one-half (1/2) inch in diameter and twenty-four (24) inches long and driven so as to be flush with the finished grade. When rock is encountered a hole shall be drilled four (4) inches deep in the rock, into which shall be cemented a steel rod one-half (1/2) inch in diameter, the top of which shall be flush with the finished grade. Upon completion of subdivision streets, sewers, and other improvements, the subdivider shall

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make certain that all monuments required by the Administrator are clearly visible for inspection and use. (04-11-95, Case SA-94-01, Ord. No. 016-95, 09-10-96, Case SA-96-01, Ord. No. 022-96)

### **ADDITIONAL CONDITIONS**

#### **SECTION 5-36. DRIVEWAY SPACING.**

No lot shall be created along any street for which driveway spacing standards as outlined in the Zoning Ordinance for certain districts cannot be met unless the subdivider dedicates an access easement across the adjacent lot(s) to allow vehicular access to and from the public street at a location in conformity with the Zoning Ordinance. (10-12-93, Case SA-93-01, Ord. No 035-93)(This section erroneously identified in Ord 035-93 as 5-40. Temporarily assigned 5-39A until renumbering of subsequent sections is accomplished.) (04-11-95, Case SA-94-01, Ord. No. 016-95)

#### **SECTION 5-38. COMMERCIAL AND INDUSTRIAL SITES.**

Depth and width of properties reserved or laid out for commercial and industrial purposes or in present or future commercial zones shall be adequate to provide for the off-street service and parking facilities as may be required.

#### **SECTION 5-39. DOUBLE FRONTAGE LOTS.**

Double frontage lots should be avoided except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation.

### **RESERVATION OF LAND FOR PUBLIC PURPOSES**

#### **SECTION 5-40.**

The Administrator may require subdividers of residential subdivision to set aside land for parks, playground, schools, libraries, municipal buildings, and similar public and semipublic uses, subject to the following regulations:

- a. Subdividers shall not be required to dedicate land for parks or playgrounds exceeding ten (10) percent of the area of the subdivision, exclusive of street and drainage reservations, except on a reimbursement basis.

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- b. If subdividers are required to reserve land for public purposes other than streets, drainage, parks or playgrounds, they shall be required to give an eighteen (18) month option to the City for the purchase of the property involved. If the City does not exercise said option, the land may be sold as lots for the same purpose for which the subdivision was platted. To facilitate such possible eventual sale of reserved land as separate lots, the subdivider shall show on his final plat, by dotted lines and dotted numbers, the area and dimensions of lots to be created within the boundaries of any such reserved land, and may sell such lots, after the expiration date of the reservation by lot number, without filing an amended plat.
- c. It shall be the responsibility of the City to maintain the land described by this section upon its dedication to the City.

### **UNDERGROUND INSTALLATION OF WIRE AND CABLE UTILITIES (9-12-89, CASE SA-89-01, ORD. NO. 025-89)**

#### **SECTION 5-41.**

All distribution lines for electrical, telephone, cable television and any other services requiring wires or cables shall be installed underground. (9-12-89, Case SA-89-01, Ord. No. 025-89)

### **IDENTIFICATION OF WASTEWATER PRETREATMENT REQUIREMENTS**

#### **SECTION 5-42.**

Applications for subdivision approval shall identify provisions for wastewater disposition and pretreatment, if required, in accordance with standards of the City of Winchester. (7-10-90, Case # SA-90-01, Ord. No. 025-90)